

## Rural Utilities Service, USDA

## § 1775.2

### §§ 1774.21–1774.23 [Reserved]

### § 1774.24 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this part which is not inconsistent with the authorizing statute or other applicable law and is determined to be in the Government's interest. Requests for exceptions must be made in writing by the State Director and supported with documentation to explain the adverse effect on the Government's interest, propose alternative course(s) of action, and show how the adverse affect will be eliminated or minimized if the exception is granted. The exception decision will be documented in writing, signed by the Administrator, and retained in the files.

### §§ 1774.25–1774.99 [Reserved]

### § 1774.100 OMB Control Number.

The information collection requirements in this part will not be effective until approved by the Office of Management and Budget (OMB), subject to the submission of a paperwork package to OMB and assigned an OMB Control Number.

## PART 1775—TECHNICAL ASSISTANCE GRANTS

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AUTHORITY: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

SOURCE: 70 FR 70878, Jan. 7, 2004, unless otherwise noted.

## Subpart A—General Provisions

### § 1775.1 General.

This subpart sets forth the general policies and procedures for the Technical Assistance and Training and the Solid Waste Management Grant Programs. Any processing or servicing activity conducted pursuant to this part involving authorized assistance to Rural Development employees with Water and Environmental Program responsibility, members of their families, known close relatives, or business or close personal associates, is subject to the provisions of subpart D of part 1900 of this title. Applicants for this assistance are required to identify any known relationship or association with an RUS employee.

### § 1775.2 Definitions.

The following definitions apply to subparts A through D of this part.

*Association.* An entity, including a small city or town, that is eligible for RUS Water and Waste Disposal financial assistance in accordance with 7 CFR 1780.7 (a).

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*Approval official.* Any individual with administrative and legal responsibility for Rural Development programs.

*DUNS Number.* Data Universal Numbering System number obtained from Dun and Bradstreet and used when applying for Federal grants or cooperative agreements. A DUNS number may be obtained at no cost, by calling 1-866-705-5711.

*Grant agreement.* RUS Guide 1775-1. The agreement outlines the terms and conditions of the grant awards and establishes the guidelines for administering the grant awards.

*Grantee.* The entity or organization receiving financial assistance directly from the RUS to carry out the project or program under these programs.

*Low Income.* Median household income (MHI) below 100 percent of the statewide non-metropolitan median household income (SNMHI).

*Regional.* A multi-State area or any multi-jurisdictional area within a State.

*Rural area.* Any area not in a city or town with a population in excess of 10,000, according to the most recent decennial Census of the United States. If the applicable population figure cannot be obtained from the most recent decennial Census, RD will determine the applicable population figure based on available population data.

*RUS.* The Rural Utilities Service, an Agency of the United States Department of Agriculture.

*Solid Waste Management.* Refers to the operations, maintenance and the recycling of materials disposed of in landfills.

*State.* Any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Territory of Guam, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and the U.S. Virgin Islands.

*Technical Assistance.* Supervision, oversight, or training by an organization for the practical solution of a problem or need of an association as defined in this section.

[70 FR 70878, Jan. 7, 2004, as amended at 80 FR 9862, Feb. 24, 2015]

### § 1775.3 Availability of forms and regulations.

Information about the forms, instructions, regulations, bulletins, OMB Circulars, Treasury Circulars, standards, documents and publications cited in this part is available from any USDA/Rural Development Office or the Rural Utilities Service, United States Department of Agriculture, Washington, DC 20250-1500.

### § 1775.4 Allocation of funds.

The National Office of the Rural Utilities Service will administer grant funds and will allocate them on a competitive basis.

### § 1775.5 Limitations.

Grant funds may not be used to:

(a) Duplicate current services or replace or substitute support normally provided by other means, such as those performed by an association's consultant in developing a project, including feasibility, design, and cost estimates.

(b) Fund political or lobbying activities.

(c) Purchase real estate or vehicles, improve or renovate office space, or repair and maintain privately owned property.

(d) Pay the costs for construction, improvement, rehabilitation, modification, or operation and maintenance of water, wastewater, and solid waste disposal facilities.

(e) Construct or furnish a building.

(f) Intervene in the Federal regulatory or adjudicatory proceedings.

(g) Sue the Federal Government or any other government entities.

(h) Pay for any other costs that are not allowable under 2 CFR part 200, as adopted by USDA through 2 CFR part 400.

(i) Make contributions or donations to others.

(j) Fund projects that duplicate technical assistance given to implement action plans under the National Forest-Dependent Rural Communities Economic Diversification Act of 1990 (7 U.S.C. 6613). Applicants cannot receive both grants made under this part and grants that the Forest Service makes to implement the action plans for five continuous years from the date of grant approval by the Forest Service.

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(1) The Forest Service helps rural communities that are dependent upon national forest resources diversify existing industries and economies. It establishes rural forestry and economic diversification action teams that prepare technical assistance plans for these rural communities to expand their local economies and reduce their dependence on national forest resources. The Forest Service provides assistance to implement the action plans through grants, loans, cooperative agreements, or contracts.

(2) To avoid duplicate assistance, applicants must contact the Forest Service to find out if any geographical areas or local areas in a State have received grants for technical assistance to an economically disadvantaged community. These areas are defined as national forest-dependent communities under 7 U.S.C. 6612. Applicants will provide documentation to the Forest Service and Rural Utilities Service that they have contacted each agency.

(k) To pay an outstanding judgment obtained by the United States in a Federal Court (other than in the United States Tax Court), which has been recorded. An applicant will be ineligible to receive a loan or grant until the judgment is paid in full or otherwise satisfied.

(l) Recruit applications for the RUS's water and waste loan or any other loan or grant program. Grant funds cannot be used to create new business; however, they can be used to assist with application preparation.

[70 FR 70878, Jan. 7, 2004, as amended at 79 FR 76005, Dec. 19, 2014]

### § 1775.6 Equal opportunity requirements.

The policies and regulations contained in subpart E of part 1901 of this title apply to grants made under this part.

### § 1775.7 Environmental requirements.

Grants made for the purposes in §§ 1775.36 and 1775.66 must comply with the environmental review requirements in accordance with 7 CFR part 1970.

[81 FR 11028, Mar. 2, 2016]

### § 1775.8 Other Federal statutes.

Other Federal statutes and regulations are applicable to grants awarded under this part. These include but are not limited to:

(a) 7 CFR part 1, subpart A—USDA implementation of Freedom of Information Act.

(b) 7 CFR part 3—USDA implementation of OMB Circular No. A-129 regarding debt collection.

(c) 7 CFR part 15, subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964, as amended.

(d) 7 CFR part 1970.

(e) 7 CFR part 1901, subpart E—Civil Rights Compliance Requirements.

(f) 2 CFR part 200, as adopted by USDA through 2 CFR part 400, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal.

(g) 2 CFR part 415—General Program Administrative Requirements.

(h) 2 CFR part 180, as implemented by USDA through 2 CFR part 417, Non-procurement Debarment and Suspension, implementing Executive Order 12549 on debarment and suspension.

(i) 2 CFR part 418, New Restrictions on Lobbying, prohibiting the use of appropriated funds to influence Congress or a Federal agency in connection with the making of any Federal grant and other Federal contracting and financial transactions.

(j) 2 CFR 421, Requirements for Drug-Free Workplace (Financial Assistance), implementing the Drug-Free Workplace Act of 1988 (41 U.S.C 701).

(k) 2 CFR part 200, subpart F—Audit Requirements.

(l) 29 U.S.C. 794, section 504—Rehabilitation Act of 1973, and 7 CFR part 15B (USDA implementation of statute), prohibiting discrimination based upon physical or mental handicap in Federally assisted programs.

[70 FR 70878, Jan. 7, 2004, as amended at 79 FR 76005, Dec. 19, 2014; 81 FR 7696, Feb. 16, 2016; 81 FR 11028, Mar. 2, 2016]

### § 1775.9 OMB control number.

The information collection requirements contained in this part have been approved by the Office of Management and Budget and have been assigned OMB control number 0572-0112.

## Subpart B—Grant Application Processing

### § 1775.10 Applications.

(a) *Filing period.* Applications may be filed on or after October 1 and must be received by close of business or postmarked by midnight December 31. If an application is received either before October 1 or after December 31, the receiving office will return it to the applicant.

(b) *Where to file.* (1) An applicant will apply to the appropriate State Office of Rural Development if the project will serve a single state.

(2) An applicant will apply to the National Office if the project will serve multiple states. The application must be submitted to the following address: Assistant Administrator, Water and Environmental Programs, Rural Utilities Service, Washington, DC 20250–1570.

(3) Electronic applications will be accepted prior to the filing deadline through the Federal Government's eGrants Web site (Grants.gov) at <http://www.grants.gov>. Applicants should refer to instructions found on the Grants.gov Web site to submit an electronic application. A DUNS number and a Central Contractor Registry (CCR) registration is required prior to electronic submission. The sign-up procedures, required by Grants.gov, may take several business days to complete.

(c) *Application requirements.* To file an application, an organization must provide their DUNS number. An organization may obtain a DUNS number from Dun and Bradstreet by calling (1-866-705-5711). To file a complete application, the following information should be submitted:

(1) Standard Form 424, "Application for Federal Assistance (For Non-Construction)."

(2) Standard Form 424A & B, "Budget Information—Non-Construction Programs."

(3) Form AD-1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transaction."

(4) Form AD 1049, "Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative I—For Grantees Other Than Individuals."

(5) Form AD 1048, "Certification Regarding Debarment."

(6) Attachment regarding assistance provided to Rural Development Employees as required by RD Instruction 1900–D.

(7) Form RD 400–4, "Assurance Agreement."

(8) Form RD 400–1, "Equal Opportunity Agreement."

(9) Indirect cost documentation such as cost rate proposals, cost allocation plans, or other election for indirect costs and appropriate certification of indirect costs in accordance with Cost Principles in 2 CFR 200, subpart E, as adopted by USDA through 2 CFR part 400.

(10) Statement of Compliance for Title VI of the Civil Rights Act of 1964.

(11) SF LLL, "Disclosure of Lobbying Activities" (include only if grant is over \$100,000).

(12) Certification regarding Forest Service grant.

(d) *Supporting information.* All applications shall be accompanied by:

(1) Evidence of applicant's legal existence and authority in the form of:

(i) Certified copies of current authorizing and organizational documents for new applicants or former grantees where changes were made since the last legal opinion was obtained in conjunction with receipt of an RUS grant, or, certification that no changes have been made in authorizing or organizing documents since receipt of last RUS grant by applicant.

(ii) Current annual corporation report, Certificate of Good Standing, or statement they are not required.

(iii) For public nonprofits, Certificate of Continued Status from local attorney (if applicable).

(iv) Certified list of directors/officers with their respective terms.

(2) Evidence of tax exempt status from the Internal Revenue Service (IRS), if applicable.

(3) Narrative of applicant's experience in providing services similar to those proposed. Provide brief description of successfully completed projects including the need that was identified and objectives accomplished.

(4) Latest financial information to show the applicant's financial capacity

to carry out the proposed work. A current audit report is preferred, however applicants can submit a balance sheet and an income statement in lieu of an audit report.

(5) List of proposed services to be provided.

(6) Estimated breakdown of costs (direct and indirect) including those to be funded by grantee as well as other sources. Sufficient detail should be provided to permit the approval official to determine reasonableness, applicability, and allowability.

(7) Evidence that a Financial Management System is in place or proposed.

(8) Documentation on each of the priority ranking criteria listed in §1775.11 as follows:

(i) List of the associations to be served and the State or States where assistance will be provided. Identify associations by name, or other characteristics such as size, income, location, and provide MHI and population.

(ii) Description of the type of technical assistance and/or training to be provided and the tasks to be contracted.

(iii) Description of how the project will be evaluated and provide clearly stated goals and the method proposed to measure the results that will be obtained.

(iv) Documentation of need for proposed service. Provide detailed explanation of how the proposed services differ from other similar services being provided in the same area.

(v) Personnel on staff or to be contracted to provide the service and their experience with similar projects.

(vi) Statement indicating the number of months it takes to complete the project or service.

(vii) Documentation on cost effectiveness of project. Provide the cost per association to be served or proposed cost of personnel to provide assistance.

(viii) Other factors for consideration, such as emergency situation, training need identified, health or safety problems, geographic distribution, Rural Development Office recommendations, etc.

#### § 1775.11 Priority.

The application and supporting information will be used to determine the applicant's priority for available funds. All applications will be reviewed and scored for funding priority in accordance with RUS Guide 1775-2. Points will be given only for factors that are well documented in the application package and, in the opinion of the RUS, meet the objective outlined under each factor. The following is a listing of the criteria that will be used to select the applications that meet the objectives of the technical assistance program.

(a) Projects proposing to give priority for available services to rural communities having a population less than 5,500 and/or below 2,500.

(b) Projects proposing to give priority for available services to low income communities.

(c) Projects that will provide assistance in a multi-State area.

(d) Points will be awarded for work plans that clearly describe the goals and objectives of the project, how they will be accomplished in targeted communities, and what measurement of accomplishment will be used.

(e) Projects containing needs assessment (i.e. actual issue or problem being addressed) clearly defined and supported by data.

(f) Projects containing evaluation methods that are specific to the activity, clearly defined, measurable, and with projected outcomes.

(g) Applicants proposing to use at least 75 percent of the total grant amount for their own staff, or the staff of an affiliated organization to provide services for a project instead of contracting with an outside organization for the services.

(h) Projects providing technical assistance/training that accomplish the objective within a 12-month or less timeframe.

(i) Projects primarily providing "hands on" technical assistance and training, i.e., on-site assistance as opposed to preparation and distribution of printed material, to communities with existing water and waste systems which are experiencing operation and maintenance or management problems; and/or provide technical assistance and

[70 FR 70878, Jan. 7, 2004, as amended at 79 FR 76005, Dec. 19, 2014]

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training to water supply systems or waste facilities that are unhealthful (*i.e.*, emerging contaminants detected in drinking water and surface water supplies.)

(j) Cash or in kind support of project from non-federal sources.

(k) Ability to demonstrate sustainability of project without Federal financial support.

[70 FR 70878, Jan. 7, 2004, as amended at 85 FR 23210, Apr. 27, 2020]

### § 1775.12 Grant processing.

(a) *Single State applications.* (1) Grant applications submitted at the State level will receive a letter acknowledging receipt and confirmation that all information required for a full application was included in the packet. The State will notify the applicant of missing information. The applicant will have 14 business days to respond.

(2) The State Office will review applications for eligibility. Those applicants that are deemed ineligible will be notified. Applicants deemed eligible will be forwarded to the National Office for funding consideration.

(3) The National Office will review all applications received from State Offices. Applications will compete on a priority basis and will be scored and ranked. The applications receiving the highest scores and subject to the availability of funds will be selected for final processing. The National Office will send these applications back to the State Office for processing. The State Office will notify the applicant(s) that they have been selected for funding.

(4) Applicants not selected for funding due to low priority rating shall be notified by the State Office.

(b) *National and multi-State applications.* (1) National and multi-State applications submitted to the National Office will receive a letter acknowledging receipt and confirmation that all information required for a full application was included in the packet. The National Office shall notify the applicant of missing information. The applicant will have 14 business days to respond.

(2) The National Office will review applications for eligibility. Those applications that are deemed ineligible will be notified. Applications deemed

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eligible will be reviewed and given a rating score. Applications receiving the highest scores will be grouped with those received from State Offices for funding consideration.

(3) The National Office will review all applications received. Applications will compete on a priority basis and will be scored and ranked. The applications receiving the highest scores and subject to the availability of funds will be notified by the National Office that they have been selected for funding. The National Office shall conduct final processing of multi-State and national applications.

(4) Multi-State and National applicants not selected for funding due to low priority rating will be notified by the National Office.

(c) *Low priority applications.* Applications that cannot be funded in the fiscal year received will not be retained for consideration in the following fiscal year and will be handled as outlined in paragraph (a)(4) or (b)(4) of this section.

### § 1775.13 Grant agreement.

Applicants selected for funding will complete a grant agreement, RUS Guide 1775–1, which outlines the terms and conditions of the grant award.

### §§ 1775.14–1775.17 [Reserved]

### § 1775.18 Fund disbursement.

Grantees will be reimbursed as follows:

(a) SF-270, “Request for Advance or Reimbursement,” will be completed by the grantee and submitted to either the State or National Office not more frequently than monthly.

(b) Upon receipt of a properly completed SF-270, the funds will be requested through the field office terminal system. Ordinarily, payment will be made within 30 days after receipt of a proper request for reimbursement.

(c) Grantees are encouraged to use women- and minority-owned banks (a bank which is owned at least 50 percent by women or minority group members) for the deposit and disbursement of funds.

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### § 1775.19 Grant cancellation or major changes.

Any change in the scope of the project, budget adjustments of more than 10 percent of the total budget, or any other significant change in the project must be reported to and approved by the approval official by written amendment to RUS Guide 1775-1. Any change not approved may be cause for termination of the grant.

### § 1775.20 Reporting.

(a) Grantees shall constantly monitor performance to ensure that time schedules are being met, projected work by time periods is being accomplished, and other performance objectives are being achieved.

(b) SF-425," Federal Financial Report," and a project performance activity report will be required of all grantees on a quarterly basis, due 30 days after the end of each calendar quarter.

(c) A final project performance report will be required with the last SF-425 due 90 days after the end of the last quarter in which the project is completed. The final report may serve as the last quarterly report.

(d) All multi-State grantees are to submit an original of each report to the National Office. Grantees serving only one State are to submit an original of each report to the State Office. The project performance reports should detail, preferably in a narrative format, activities that have transpired for the specific time period and shall include, but not be limited to, the following:

(1) A comparison of actual accomplishments to the objectives established for that period (i.e. number of meetings held, number of people contacted, results of activity);

(2) Analysis of challenges or setbacks that occurred during the grant period;

(3) Copies of fliers, news releases, news articles, announcements and other information used to promote services or projects;

(4) Problems, delays, or adverse conditions which will affect attainment of overall project objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular project work elements during established time periods. This disclo-

sure shall be accompanied by a statement of the action taken or planned to resolve the situation; and

(5) Activities planned for the next reporting period.

[70 FR 70878, Jan. 7, 2004, as amended at 79 FR 76005, Dec. 19, 2014]

### § 1775.21 Audit or financial statements.

The grantee will provide an audit report or financial statements as follows:

(a) Grantees expending \$750,000 or more Federal funds per fiscal year will submit an audit conducted in accordance with Subpart F of 2 CFR part 200, as adopted by USDA through 2 CFR part 400. The audit will be submitted with 9 months of the grantee's fiscal year. Additional audits may be required if the project period covers more than one fiscal year.

(b) Grantees expending less than \$750,000 will provide annual financial statement covering the grant period, consisting of the organization's statement of income and expense and balance sheet signed by an appropriate official of the organization. Financial statement will be submitted within 90 days after the grantees fiscal year.

[70 FR 70878, Jan. 7, 2004, as amended at 79 FR 76005, Dec. 19, 2014]

### § 1775.22 [Reserved]

### § 1775.23 Grant servicing.

Grants will be serviced in accordance with RUS Guide 1775-1 and subpart E of part 1951 of this title. When grants are terminated for cause, 7 CFR part 11 will be followed.

### § 1775.24 Delegation of authority.

The authority under this part is re-delegated to the Assistant Administrator, Water and Environmental Programs, except for the discretionary authority contained in §§1775.34 and 1775.68. The Assistant Administrator, Water and Environmental Programs may re-delegate the authority in this part.

§§ 1775.25–1775.30 [Reserved]

**Subpart C—Technical Assistance and Training Grants**

**§ 1775.31 Authorization.**

This subpart sets forth additional policies and procedures for making Technical Assistance and Training (TAT) grants authorized under Section 306(a)(14)(A) of the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1921 *et seq.*, as amended).

**§ 1775.32 [Reserved]**

**§ 1775.33 Objectives.**

The objectives of the program are to:

- (a) Identify and evaluate solutions to water and waste problems in rural areas.
- (b) Assist applicants in preparing applications for water and waste disposal loans/grants.
- (c) Assist associations in improving operation and maintenance of existing water and waste facilities in rural areas.

**§ 1775.34 Source of funds.**

Grants will be made from not less than 1 percent or not more than 3 percent of any appropriations for grants under Section 306(a)(2) of the CONACT. Funds not obligated by September 1 of each fiscal year will be used for water and waste disposal grants made in accordance with part 1780 of this chapter.

**§ 1775.35 Eligibility.**

(a) Entities eligible for grants must be private nonprofit organizations with tax exempt status, designated by the Internal Revenue Service. A nonprofit organization is defined as any corporation, trust, association, cooperative, or other organization that:

- (1) Is operated primarily for scientific, education, service, charitable, or similar purposes in the public interest.
- (2) Is not organized primarily for profit.
- (3) Uses its net proceeds to maintain, improve, and/or expand its operations.

(b) Entities must be legally established and located within a state as defined in § 1775.2.

(c) Organizations must be incorporated by December 31 of the year the application period occurs to be eligible for funds.

(d) Private businesses, Federal agencies, public bodies, and individuals are ineligible for these grants.

(e) Applicants must also have the proven ability, background, experience (as evidenced by the organization's satisfactory completion of project(s) similar to those proposed), legal authority, and actual capacity to provide technical assistance and/or training on a regional basis to associations as provided in § 1775.33. To meet the requirement of actual capacity, an applicant must either:

- (1) Have the necessary resources to provide technical assistance and/or training to associations in rural areas through its staff, or
- (2) Be assisted by an affiliate or member organization which has such background and experience and which agrees, in writing, that it will provide the assistance, or
- (3) Contract with a nonaffiliated organization for not more than 49 percent of the grant to provide the proposed assistance.

**§ 1775.36 Purpose.**

Grants may be made to organizations as defined in § 1775.35 to enable such organizations to assist associations to:

- (a) Identify and evaluate solutions to water problems of associations in rural areas relating to source, storage, treatment, and/or distribution.
- (b) Identify and evaluate solutions to waste problems of associations in rural areas relating to collection, treatment, and/or disposal.
- (c) Prepare water and/or waste disposal loan/grant applications.
- (d) Provide technical assistance/training to association personnel that will improve the management, operation, and maintenance of water and waste facilities.
- (e) Identify options to enhance the long-term sustainability of rural water and waste systems, including operational practices, revenue enhancements, partnerships, consolidation, regionalization, or contract services.



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(f) Address the contamination of drinking water and surface water supplies by emerging contaminants, including per- and polyfluoroalkyl substances.

(g) Pay the expenses associated with providing the technical assistance and/or training authorized in paragraphs (a) through (f) of this section.

[70 FR 70878, Jan. 7, 2004, as amended at 85 FR 23210, Apr. 27, 2020]

### § 1775.37 Allocation of funds.

At least 10 percent of available funds will be used for funding single State projects based on the priority criteria.

### §§ 1775.38–1775.60 [Reserved]

## Subpart D—Solid Waste Management Grants

### § 1775.61 Authorization.

This subpart sets forth the policies and procedures for making Solid Waste Management (SWM) grants authorized under section 310B of the CONACT.

### § 1775.62 [Reserved]

### § 1775.63 Objectives.

The objectives of the program are to:

- (a) Reduce or eliminate pollution of water resources, and
- (b) Improve planning and management of solid waste sites.

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### § 1775.65 Eligibility.

(a) Entities eligible for grants must be either:

(1) Private nonprofit organizations with tax exempt status designated by the Internal Revenue Service. A nonprofit organization is defined as any corporation, trust, association, cooperative, or other organization that:

(i) Is operated primarily for scientific, education, service, charitable, or similar purposes in the public interest.

(ii) Is not organized primarily for profit.

(iii) Uses its net proceeds to maintain, improve, and/or expand its operations.

(2) Public bodies.

(3) Federally acknowledged or State-recognized Native American tribe or group.

(4) Academic institutions.

(b) Entities must be legally established and located within a state as defined in §1775.2.

(c) Organizations must be incorporated by December 31 of the year the application period occurs to be eligible for funds.

(d) Private businesses, Federal agencies, and individuals are ineligible for these grants.

(e) Applicants must also have the proven ability; background; experience, as evidenced by the organization's satisfactory completion of project(s) similar to those proposed; legal authority; and actual capacity to provide technical assistance and/or training on a regional basis to associations as provided in §1775.63. To meet the requirement of actual capacity, an applicant must either:

(1) Have the necessary resources to provide technical assistance and/or training to associations in rural areas through its staff, or

(2) Be assisted by an affiliate or member organization which has such background and experience and which agrees, in writing, that it will provide the assistance, or

(3) Contract with a nonaffiliated organization for not more than 49 percent of the grant to provide the proposed assistance.

### § 1775.66 Purpose.

Grants may be made to organizations as defined in §1775.65 to enable such organizations to assist associations to:

(a) Provide technical assistance and/or training to reduce the solid waste stream through reduction, recycling, and reuse.

(b) Provide training to enhance operator skills in maintaining and operating active landfills.

(c) Provide technical assistance and/or training for operators of landfills which are closed or will be closed in the near future with the development/implementation of closure plans, future land use plans, safety and maintenance planning, and closure scheduling within permit requirements.

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(d) Evaluate current landfill conditions to determine the threats to water resources.

(e) Pay the expenses associated with providing the technical assistance and/or training authorized in paragraphs (a) through (d) of this section.

## § 1775.67 Allocation of funds.

The maximum amount for a single applicant for a Solid Waste Management project will be 25 percent of available grant funds.

## § 1775.68 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this part which is not inconsistent with the authorizing statute or other applicable law and is determined to be in the Government's interest.

## §§ 1775.69–1775.99 [Reserved]

# PART 1776—RURAL DECENTRALIZED WATER SYSTEMS

## Subpart A—General

Sec.

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## Subpart C—DWS Loans

1776.14 Eligibility to receive a DWS loan.

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1776.16 Loan servicing.

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AUTHORITY: 7 U.S.C. 1926e.

SOURCE: 70 FR 28788, May 19, 2005, unless otherwise noted.

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## Subpart A—General

## § 1776.1 Purpose.

This part sets forth the policies and procedures for Rural Utilities Service making grants to private nonprofit organizations for the purpose of providing loans and subgrants to eligible individuals for the construction, refurbishing, and servicing of individually owned household water well systems and individually owned decentralized wastewater systems in rural areas that are or will be owned by the eligible individuals.

[85 FR 23211, Apr. 27, 2020]

## § 1776.2 Uniform Federal Assistance Provisions.

(a) This program is subject to the general provisions that apply to all grants made by USDA and that are set forth in 2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, as adopted by USDA through 2 CFR part 400, as well as the following:

(1) 2 CFR part 415—General Program Administrative Requirements.

(2) 2 CFR part 180, as adopted by USDA through 2 CFR part 417, Non-procurement Debarment and Suspension, implementing Executive Order 12549 on debarment and suspension.

(3) 2 CFR part 418, New Restrictions on Lobbying, prohibiting the use of appropriated funds to influence Congress or a Federal agency in connection with the making of any Federal grant and other Federal contracting and financial transactions.

(4) 2 CFR part 421, Requirements for Drug-Free Workplace (Financial Assistance), implementing the Drug-Free Workplace Act of 1988 (41 U.S.C 8102).

(b) [Reserved]

[81 FR 7697, Feb. 16, 2016]

## § 1776.3 Definitions.

*Administrative expenses* means expenses incurred by a grant recipient that are of the type more particularly described in Section 13 of this part.

*Applicant* means a private, non-profit organization that applies for a DWS grant under this part.

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*Centralized Servicing Center (CSC)* means the centralized loan servicing center within the United States Department of Agriculture, Rural Development. CSC provides nationwide services for borrowers that have received financing from Rural Development programs.

*Construction* means building or assembling a water well system or portion thereof, that is not a water well system or portion thereof being constructed in connection with a new building.

*Contamination* means any physical, chemical, biological, or radiological substance of matter in water, either exceeding or having potential to exceed State or Federal standards.

*Decentralized Water System (DWS)* means either a household water well or a septic system. This definition also includes decentralized wastewater systems which are onsite or clustered systems used to collect, treat, and disperse or reclaim wastewater from a small community or service area.

*Eligible individual* means an individual who is a member of a household the members of which have a combined income (for the most recent 12-month period for which the information is available) that is not more than 60 percent of the median nonmetropolitan household income for the State or territory in which the individual resides, according to 5-year income data from the American Community Survey (ACS) or, if needed, other Census Bureau data. If there is reason to believe that the ACS or other Census Bureau data does not accurately represent the median nonmetropolitan household income for the State or territory in which the individual resides, the reasons will be documented and the applicant may furnish, or RD may obtain, additional information regarding such median household income data. Information must consist of reliable data from local, regional, State or Federal sources or from a survey conducted by a reliable impartial source.

*Funding opportunity announcement (FOA)* means a publicly available document by which a Federal agency makes known its intentions to award discretionary grants or cooperative agreements, usually as a result of competi-

tion for funds. FOA announcements may be known as program announcements, notices of funding availability, solicitations, or other names depending on the agency and type of program. FOA announcements can be found at [www.Grants.gov](http://www.Grants.gov) in the Search Grants tab and on the funding agency's or program's website.

*Grant agreement* means the contract between RUS and the grant recipient which sets forth the terms and conditions governing a particular grant awarded under this part.

*Grant recipient* means an applicant that has been awarded a DWS grant under this part.

*Loan recipient* means an eligible individual who has received a DWS loan.

*Refurbishing* means to renovate or to restore a water well system or portion thereof to near new condition.

*Revolved funds* means the cash portion of the revolving loan fund that is not composed of DWS grant funds, including repayments of revolving DWS loans, fees, and interest collected on DWS loans.

*Revolving loan fund* means the loan fund established by the grant recipient to carry out the purposes of this part, such fund comprising the proceeds of a DWS grant and other related assets.

*Rural area* means any area other than a city or town that has a population of greater than 50,000 inhabitants; and the urbanized area contiguous and adjacent to such city or town.

*RUS* means the Rural Utilities Service, a Federal agency delivering the United States Department of Agriculture's Rural Development Utilities Program.

*Septic System* means systems designed to treat wastewater from household plumbing fixtures through both natural and technological processes.

*Servicing* means making repairs or performing maintenance on a water well system or portion thereof.

*Subgrants* means a grant awarded to a decentralized water system owner in order to refurbish or replace a well or septic system.

*USDA* means the United States Department of Agriculture.

[70 FR 28788, May 19, 2005, as amended at 80 FR 9862, Feb. 24, 2015; 83 FR 45033, Sept. 5, 2018; 85 FR 23211, Apr. 27, 2020]

§ 1776.4 [Reserved]

**Subpart B—DWS Grants**

**§ 1776.5 Eligibility to receive a DWS grant.**

(a) The applicant must be a private organization.

(b) The applicant must be organized as a non-profit organization.

(c) The applicant must have legal capacity and lawful authority to perform the obligations of a grant recipient under this part. Example 1: If the organization is incorporated as a non-profit corporation, it must have corporate authority under state law and its corporate charter to engage in the practice of making loans to individuals. Example 2: if the organization is an unincorporated association, state law may prevent the organization from entering into binding contracts, such as a grant agreement.

(d) The applicant must have sufficient expertise and experience in lending and in promoting the safe and productive use of individually-owned decentralized water systems and ground water to assure the likelihood that the objectives of this part can be achieved.

**§ 1776.6 Funding availability.**

A FOA will be posted to [www.Grants.gov](http://www.Grants.gov) in fiscal years that funds are available for this program. The FOA will establish the period during which applications for such funds may be submitted for consideration.

[83 FR 45034, Sept. 5, 2018]

**§ 1776.7 DWS Grant application process.**

(a) The applicant must complete and submit the following standard forms to RUS to apply for a DWS grant under this part:

(1) Application for Federal Assistance: *Standard Form 424*,

(2) Budget Information—Non-Construction Programs: *Standard Form 424A*, and

(3) Assurances—Non-Construction Programs: *Standard Form 424B*.

(b) The applicant must submit a written work plan that demonstrates the feasibility of the applicant's lending

program to meet the objectives of this part.

(c) The applicant should submit a narrative establishing the basis for any claims that it has substantial expertise in promoting the safe and productive use of individually-owned decentralized water systems. The Secretary will give priority to an applicant that demonstrates it has substantial experience of this type.

(d) The applicant must submit:

(1) A pro forma balance sheet at start-up and projected balance sheets for at least three additional years,

(2) Financial statements for the last three years, or from inception of the operations of the grant recipient if less than three years, and

(3) Projected cash flow and earnings statements for at least three years, supported by a list of assumptions showing the basis for the projections. The projected earnings statement and balance sheets must include one set of projections specific to the revolving loan fund, and a separate set of projections that detail the proposed applicant organization's total operations.

(e) The applicant may submit such additional information as it elects to support and describe its plan for achieving the objectives of this part.

**§ 1776.8 Methods for submitting applications.**

(a) Applications may be filed in either paper or electronic format. RUS will not accept applications by fax or e-mail.

(b) Paper applications for DWS grants may be delivered by the U.S. Postal Service (USPS) or courier delivery services. Applications submitted by mail or courier must be postmarked no later than the filing deadline to be considered for the grant period. Applications delivered by mail or courier must be addressed to the attention of the Assistant Administrator, Water and Environmental Programs as follows: ATTN: Assistant Administrator, WEP, Rural Utilities Service, Stop 1548 Room 5145 South, 1400 Independence Ave. SW., Washington, DC 20250–1548.

(c) Electronic applications may be filed through Grants.gov, the official Federal Government Web site at <http://www.grants.gov>. The applicant must be

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registered with Grants.gov before they can submit a grant application. The applicant should refer to instructions found on the Grants.gov Web site for procedures for registering and using this facility. An applicant who is not registered on Grants.gov should allow a sufficient number of business days to complete the process. Applications submitted electronically must be show an electronic date and time stamp on or before the filing deadline to be considered for the grant period.

(d) The methods of submitting applications may be changed from time to time to reflect changes in addresses and electronic submission procedures. The applicant should refer to the most recent FOA for notice of any such changes. In the event of any discrepancy, the most recent FOA must be followed.

[70 FR 28788, May 19, 2005, as amended as 83 FR 45033, Sept. 5, 2018]

### § 1776.9 Scoring applications.

(a) Applications that are incomplete or ineligible will be returned to the applicant, accompanied by a statement explaining why the application is being returned.

(b) Promptly after an application period closes, all applications that are complete and eligible will be ranked competitively based on the following scoring criteria:

(1) Degree of expertise and experience in promoting the safe and productive use of individually-owned decentralized water systems and ground water. Up to 30 points

(2) Degree of expertise and successful experience in making and servicing loans to individuals. Up to 20 points

(3) Percentage of applicant contributions. Points allowed under this paragraph will be based on written evidence of the availability of funds from sources other than the proceeds of a DWS grant to pay part of the cost of a loan recipient's project. In-kind contributions will not be considered. Funds from other sources as a percentage of the DWS grant and points corresponding to such percentages are as follows:

- (i) 0 to 9 percent—ineligible;
- (ii) 10 to 25 percent—5 points;
- (iii) 26 to 30 percent—10 points;
- (iv) 31 to 50 percent—15 points; and

(v) 51 percent or more—20 points

(4) Extent to which the work plan demonstrates a well thought out, comprehensive approach to accomplishing the objectives of this part, clearly defines who will be served by the project, and appears likely to be sustainable. Up to 20 points

(5) Extent to which the goals and objectives are clearly defined, tied to the work plan, and measurable. Up to 10 points

(6) Lowest ratio of projected administrative expenses to loans advanced. 10 points

(7) Administrator's discretion, considering such factors as creative outreach ideas for marketing DWS loans to rural residents, the amount of funds requested in relation to the amount of needs demonstrated in the work plan, previous experiences demonstrating excellent utilization of a revolving loan fund grant, and optimizing the use of agency resources. Up to 10 points

(c) All qualifying applications under this part will be scored based on the criteria contained in this section. Awards will be made based on the highest ranking applications and the amount of financial assistance available for DWS grants. All applicants will be notified in writing of the score each application receives.

### § 1776.10 Grant agreement.

(a) RUS and the grantee will enter into an agreement setting forth the terms and conditions governing a particular DWS grant award. RUS will furnish the form of grant agreement. No funds awarded under this part shall be disbursed to the grant recipient before the grant agreement is binding and RUS has received a fully executed counterpart of the grant agreement.

(b) The grantee or RUS may initiate an amendment or modification to the grant agreement to provide for a loan limit up to \$15,000. No change in the grant agreement requested by the grant recipient will be effective unless approved in writing by RUS.

[73 FR 68294, Nov. 18, 2008, as amended at 85 FR 23211, Apr. 27, 2020]

### § 1776.11 Revolving loan fund.

The grant recipient shall establish and maintain a revolving loan fund for

## **§ 1776.12**

the purposes set forth in §1776.12. All loans made to loan recipients shall be drawn from the revolving loan fund. The loans shall be serviced, and the revolving loan fund shall be maintained, as set forth in §1776.17.

### **§ 1776.12 Use of DWS Grant proceeds.**

(a) Except as otherwise provided in the next paragraph. The DWS grant process shall be used solely for the purpose of providing loans to eligible individuals for the construction, refurbishing, and servicing of individual decentralized water systems in rural areas that are or will be owned by the eligible individuals.

(b) A grant recipient may use DWS grant funds to pay administrative expenses associated with providing the assistance described in the immediately preceding paragraph.

(c) A grant recipient may not use grant funds in any manner inconsistent with the terms of the grant agreement.

(d) In the event of ground well water contamination, the Secretary shall allow a loan or subgrant to be made with grant funds under this section for the installation of water treatment where needed beyond the point of entry, with or without the installation of a new water well system.

(e) Any entities responsible for fouling a drinking water supply are not eligible to be the recipients of an award for this program.

[70 FR 28788, May 19, 2005, as amended at 85 FR 23211, Apr. 27, 2020]

### **§ 1776.13 Administrative expenses.**

(a) Subject to the limitations provided in paragraphs (b), (c) and (d) of this section, the grant recipient may use grant funds to pay administrative expenses associated with providing DWS loans.

(b) Administrative expenses incurred in any calendar year which exceed 10 percent of the DWS loans made by the grant recipient during that same period do not qualify for reimbursement.

(c) Administrative expenses incurred prior to the execution of the grant agreement by RUS do not qualify for reimbursement.

(d) Allowability of administrative expense costs shall be determined in ac-

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cordance with 2 CFR part 200, as adopted by USDA through 2 CFR part 400.

[70 FR 28788, May 19, 2005, as amended at 79 FR 76005, Dec. 19, 2014]

## **Subpart C—DWS Loans**

### **§ 1776.14 Eligibility to receive a DWS loan.**

(a) The loan recipient must be an eligible individual.

(b) The loan recipient must either own and occupy the home being improved with the proceeds of the DWS loan, or be occupying the home as the purchaser under a legally enforceable land purchase contract which is not in default by either the seller or the purchaser.

(c) The home using the water well system being funded from proceeds of the DWS loan must be located in a rural area.

(d) The water well system being funded from the proceeds of the DWS loan may not be associated with the construction of a new dwelling.

(e) The water well system being funded from the proceeds of the DWS loan may not be used to substitute for water service available from collective water systems. Example: Loan recipient wishes to restore an old well which had been abandoned when the dwelling was connected to a water line belonging to a water district.

(f) A loan recipient must not be suspended or debarred from participation in Federal programs.

### **§ 1776.15 Terms of loans.**

(a) DWS loans under this part—

(1) Shall have an interest rate of 1 percent;

(2) Shall have a term not to exceed 20 years; and

(3) Shall not exceed \$15,000 for each water well system or decentralized wastewater system described in §1776.1.

(b) The grant recipient must set forth the DWS loan terms in written documentation signed by the loan recipient.

(c) Grant recipients must develop and use DWS loan documentation that conforms to the terms of this part, the grant agreement, and the laws of the state or states having jurisdiction.

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(d) The Agency will determine the maximum subgrant limit for each DWS applicant.

(e) The applicant will determine subgrant funding levels to individual subgrantees based on established criteria described in the workplan.

[70 FR 28788, May 19, 2005, as amended at 73 FR 68295, Nov. 18, 2008; 85 FR 23211, Apr. 27, 2020]

### § 1776.16 Loan servicing.

(a) If RUS determines that DWS loans may be serviced by CSC, then the grant recipient will enter into an agreement with the Centralized Servicing Center for servicing all DWS loans made from the revolving loan fund. All DWS loan payments will be received by and processed at the Centralized Servicing Center. The grant recipient will be charged a fee for this service, and such fee should be included in the projected financial statements and work plan submitted as part of the grant application. This fee may be reimbursed as an administrative expense as provided in § 1776.13.

(b) If RUS determines that CSC is not able to service DWS loans, then the grant recipient shall be responsible for servicing, or causing to be serviced, all DWS loans. Servicing will include preparing loan agreements, processing loan payments, reviewing financial statements and debt reserves balances, and other responsibilities such as enforcement of loan terms. Loan servicing will be in accordance with the work plan RUS approved when the grant was awarded. It will continue as long as any loan made in whole or in part with RUS grant funds is outstanding.

### § 1776.17 Revolving loan fund maintenance.

As long as any part of the DWS grant remains available for lending, and loans made from the revolving loan fund have an outstanding balance due, the grant recipient must maintain the revolving loan fund for the purposes set forth in § 1776.13.

(a) All DWS grant funds received by a grant recipient must be deposited into the revolving loan fund.

(b) The grant recipient may transfer additional assets into the revolving loan fund.

(c) All cash and other assets of the revolving loan fund shall be deposited in a separate bank account or accounts.

(d) No cash or other assets of any other fund maintained by the grant recipient shall be commingled with the cash and other assets of the revolving loan fund.

(e) All moneys deposited in such bank account or accounts shall be money of the revolving loan fund.

(f) Loans to loan recipients are advanced from the revolving loan fund.

(g) The revolving loan fund will consist of receivables created by making loans, the grant recipient's security interest in collateral pledged by loan recipients, collections on the receivables, interest, fees, and any other income or assets derived from the operation of the revolving loan fund.

(h) The portion of the revolving loan fund that consists of DWS grant funds, on a last-in-first-out basis, may be used for only those purposes set forth in this part.

(i) The grant recipient must submit an annual budget of proposed administrative costs for RUS approval. The amount removed from the revolving loan fund for administrative costs in any year must be reasonable; must not exceed the actual cost of operating the revolving loan fund, including loan servicing and providing technical assistance; and must not exceed the amount approved by RUS in the grant recipient's annual budget.

(j) A reasonable amount of revolved funds must be used to create a reserve for bad debts. Reserves should be accumulated over a period of years. The total amount should not exceed maximum expected losses, considering the quality of the grant recipient's portfolio of loans. Unless the grant recipient provides loss and delinquency records that, in the opinion of RUS, justifies different amounts, a reserve for bad debts of 6 percent of outstanding loans must be accumulated over three years and then maintained as set forth in the grant agreement.

(k) Any cash in the revolving loan fund from any source that is not needed for debt service, approved administrative costs, or reasonable reserves must be available for additional loans to loan recipients.

(l) All reserves and other cash in the revolving loan fund not immediately needed for loans to loan recipients or other authorized uses must be deposited in accounts in banks or other financial institutions. Such accounts must be fully covered by Federal deposit insurance or fully collateralized with U.S. Government obligations, and must be interest bearing. Any interest earned thereon remains a part of the revolving loan fund.

## **PART 1777—SECTION 306C WWD LOANS AND GRANTS**

### **Sec.**

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1777.2 [Reserved]

1777.3 Objective.

1777.4 Definitions.

1777.5–1777.10 [Reserved]

1777.11 Making, processing, and servicing loans and grants.

1777.12 Eligibility.

1777.13 Project priority.

1777.14–1777.20 [Reserved]

1777.21 Use of funds.

1777.22–1777.30 [Reserved]

1777.31 Rates.

1777.32–1777.40 [Reserved]

1777.41 Individual loans and grants.

1777.42 Delegation of authority.

1777.43 Bulletins.

1777.44–1777.99 [Reserved]

1777.100 OMB control number.

**AUTHORITY:** 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

**SOURCE:** 62 FR 33473, June 19, 1997, unless otherwise noted.

### **§ 1777.1 General.**

(a) This part outlines Rural Utilities Service (RUS) policies and procedures for making Water and Waste Disposal (WWD) loans and grants authorized under section 306C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(c)), as amended.

(b) Agency officials will maintain liaison with officials of other Federal, State, regional, and local development agencies to coordinate related programs to achieve rural development objectives.

(c) Agency officials shall cooperate with appropriate State agencies in making loans and/or grants that support State strategies for rural area development.

(d) Funds allocated in accordance with this part will be considered for use by Indian tribes within the State regardless of whether State development strategies include Indian reservations within the State's boundaries. Indians residing on such reservations must have an equal opportunity to participate in this program.

(e) Federal statutes provide for extending the Agency's financial programs without regard to race, color, religion, sex, national origin, marital status, age, or physical/mental handicap (provided the participant possesses the capacity to enter into legal contracts).

### **§ 1777.2 [Reserved]**

### **§ 1777.3 Objective.**

The objective of the Section 306C WWD Loans and Grants program is to provide water and waste disposal facilities and services to low-income rural communities whose residents face significant health risks.

### **§ 1777.4 Definitions.**

**Applicant.** Entity that receives the Agency loan or grant under this part. The entities can be public bodies such as municipalities, counties, districts, authorities, or other political subdivisions of a State, and organizations operated on a not-for-profit basis such as associations, cooperatives, private corporations, or Indian tribes on Federal and State reservations, and other Federally recognized Indian tribes.

**Colonia.** Any identifiable community designated in writing by the State or county in which it is located; determined to be a colonia on the basis of objective criteria including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing, inadequate roads and drainage; and existed and was generally recognized as a colonia before October 1, 1989.

**Cooperative.** A cooperative formed specifically for the purpose of the installation, expansion, improvement, or